

Part 6

Authority Bonds

63H-1-601 Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

- (1) The authority may not issue bonds under this part unless the authority board first adopts a resolution authorizing their issuance.
- (2)
 - (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
 - (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.
- (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:
 - (a) in a newspaper having general circulation in the authority's boundaries; and
 - (b) as required in Section 45-1-101.
- (4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
- (5) For a period of 30 days after the publication, any person in interest may contest:
 - (a) the legality of the resolution or proceeding;
 - (b) any bonds that may be authorized by the resolution or proceeding; or
 - (c) any provisions made for the security and payment of the bonds.
- (6)
 - (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.
 - (b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Amended by Chapter 234, 2011 General Session

63H-1-602 Sources from which bonds may be made payable -- Authority powers regarding bonds.

- (1) The principal and interest on bonds issued by the authority may be made payable from:
 - (a) the income and revenues of the projects financed with the proceeds of the bonds;
 - (b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
 - (c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of a project area;
 - (d) property tax allocation funds;
 - (e) authority revenues generally;

- (f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or
 - (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
- (2) In connection with the issuance of authority bonds, the authority may:
- (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
 - (b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and
 - (c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 377, 2015 General Session

63H-1-603 Authority to purchase agency bonds.

- (1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.
- (2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 23, 2007 General Session

63H-1-604 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

- (1) A member of the authority board or other person executing an authority bond is not liable personally on the bond.
- (2)
 - (a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.
 - (b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.
 - (c) The community, the state, and its political subdivisions may not be liable on a bond issued by the authority.
 - (d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
- (3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 23, 2007 General Session

63H-1-605 Obligee rights -- Board may confer other rights.

- (1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:
 - (a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry

out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and

- (b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2)

- (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an authority board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b)

- (i) The rights that the board may confer under Subsection (2)(a) are the rights to:
 - (A) cause possession of all or part of a development project to be surrendered to an obligee;
 - (B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and
 - (C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.
- (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i) (B), the receiver:
 - (A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and
 - (B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Enacted by Chapter 23, 2007 General Session

63H-1-606 Bonds exempt from taxes -- Authority may purchase its own bonds.

- (1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.
- (2) The authority may purchase its own bonds at a price that its board determines.
- (3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Enacted by Chapter 23, 2007 General Session